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Supreme Court of the United States

OCTOBER TERM, 1954.

No. 11 Original

THE STATE OF MISSISSIPPI,

Complainant,

versus

THE STATE OF LOUISIANA,

Defendant.

PETITION FOR RE-HEARING.

L. BRYAN DABNEY,
Of the law firm of
DABNEY & DABNEY, of
Vicksburg, Mississippi,
Counsel for Petitioners.

SUBJECT INDEX

	PAGE
PETITION FOR RE-HEARING	1
REFERENCE TO AUTHORITIES PREVIOUSLY CITED	2
REFERENCE TO EXHIBITS	3

SUPREME COURT OF THE UNITED STATES.

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THE STATE OF MISSISSIPPI,

Complainant,

versus

THE STATE OF LOUISIANA,

Defendant.

PETITION FOR RE-HEARING.

To the Honorable Earl Warren, Chief Justice of the Supreme Court of the United States of America, and Associate Justices:

The Petition for Re-hearing filed herein by Eleanor R. Woolgar and Irma L. Richards, residents and citizens of the state of Indiana, and the original Movants in Intervention, would respectfully show to this Court, as follows:

Petitioners show that on the 14th day of October, 1954, this Court entered an order denying Petitioners' (then

Movants') Motion to intervene as co-defendants in that certain cause captioned "*Mississippi versus Louisiana*, #11 Original" on the docket of this Court, and they now with great deference show that said Order should not have been entered in said cause; and that they are entitled to a re-hearing herein, as well as a hearing and argument of their counsel on this instant petition, and for the following reasons:

Petitioners show that were this a bona-fide contest between these two states the Court's ruling would be unassailable and these Petitioners and their counsel would be the last to question the Order, but such is not the case, as has been shown conclusively before and now is again re-iterated.

This Court has on numerous occasions, and in no uncertain terms, declared that where it is shown that the action is not one brought in good faith between two states, or brought for the benefit of private individuals, it will not entertain the proceedings; that this Court will look behind the scenes and ascertain the motif inspiring the litigation to ascertain if it is in reality a genuine and bona-fide issue between the states. *This is precisely what we have been, and are now, asking this Court to do.*

Petitioners re-iterate that the instant suit had no right to be brought within the original jurisdiction of the United States Supreme Court pursuant to Article III, Section II, 2 of the Constitution of the United States. See authorities cited in Petitioners' Answer in Intervention and Answer to Motion to Dismiss.

This proceeding has a rather complicated and involved back-ground, and while at first glance it might have the appearance of an action between two states, in which no private or vested interests were involved or entrenched, such is not the case and it is for this reason that we are urging upon this Court the imperative necessity of checking carefully its back-ground; or at least giving these Petitioners an opportunity of being heard and by doing so, bring to the attention of this Court the motivating power behind this most unusual proceeding. Nothing more or less is what they ask of this Court.

Petitioners also further request of this Court that this Petition for a Re-hearing be gone into fully and that they be allowed to present for the inspection of this Court the transcript or record of the proceedings now pending in the U. S. District Court at Monroe, Louisiana, in those certain causes captioned: "*Eleanor R. Woolgar and Irma L. Richards v. C. W. Hunter Company*," being Number 1940 on the Docket of the United States District Court, Western District of Louisiana, and which case has been consolidated with the cases of "*Albert W. Iselin, et al. v. C. W. Hunter Company, et al.*," Number 1939 and "*John F. Iselin v. J. H. Valentine*," Number 3066 in the same court.

Petitioners attach hereto the following Exhibits, and ask that they be made and taken as a part of this Petition as much so as if copied in full herein.

Exhibit "A" Field Notes of Township 14, North Range 14 East, District North of Red River for year 1828 by Currie & McPhaille.

Exhibit "B" Township Plat for the years 1828-1830

Exhibit "C" Map prepared by A. W. Iselin showing locations of Sections and river changes.

Exhibit "D" Map of Killakranka and Davis cut-offs.

Exhibit "E" Township plat one-third larger than regular township plat.

Exhibit "F" Reconnaissance map of Mississippi River of 1874 showing scale of one inch to a mile.

Exhibit "G" Map showing 1904 cut-off.

Exhibit "H" Mississippi River Commission map of 1883.

Exhibit "I" Mississippi River Commission Chart No. 50.

Exhibit "J" Railroad Commission map of Louisiana.

Exhibit "K" Mississippi River Commission map of 1913.

Exhibit "L" Plat by L. W. Vallaine, November, 1923.

Exhibit "M" Mississippi River Commission map of 1939.

All of the aforementioned plats will conclusively show that there is absolutely no need for a decision of this Court fixing the boundary line between Mississippi and Louisiana along the course in question; that the said boundary separating these states is well-defined and easily discernible.

What the states of Mississippi and Louisiana are angling for, the former aided and abetted by the Learned and Hunter interests, is to have the boundary line drawn so as to show it as shifted from the 1904 deserted river-bed wherein the state boundary actually belongs today, and placing it in the 1908-1913 course. We urge and press upon this Honorable Court the stern necessity of stopping them in this unholy design.

In conclusion, Petitioners request that this Honorable Court reconsider their action in entering the said order denying their right of intervention, re-open the matter and permit them to be heard; and at least permit and allow their counsel to appear as *amicus curiae*.

Respectfully submitted,

ELEANOR R. WOOLGAR AND
IRMA L. RICHARDS,
By L. BRYAN DABNEY, of the law
firm of DABNEY & DABNEY,
of Vicksburg, Mississippi,
Counsel.

CERTIFICATE.

I, L. Bryan Dabney, of counsel for the Petitioners, Mesdames Eleanor R. Woolgar and Irma L. Richards, do hereby certify that the said Petition for a Re-hearing is presented in good faith and not for delay,

This 8th day of November, 1954.

L. BRYAN DABNEY,
Of the law firm of
DABNEY & DABNEY, of
Vicksburg, Mississippi,
Counsel for Eleanor R. Woolgar and Irma L. Richards.

CERTIFICATE.

This is to certify that copies of the foregoing Petition for Rehearing have been served on the Attorney General of the State of Mississippi, and the Attorney General of the State of Louisiana.

Vicksburg, Mississippi, this 8th day of November, 1954.

L. BRYAN DABNEY,
Of the law firm of
DABNEY & DABNEY, of
Vicksburg, Mississippi,
Counsel for Eleanor R. Woolgar and Irma L. Richards.